

# CITY COUNCIL REPORT



MEETING DATE: 12/12/2005    ITEM NO. 18    GOAL: Fiscal and Resource Management

## **SUBJECT**

**Authority to Assess Fees for Wireless Communication Facilities in the City's Right-of-Way.**

## **REQUEST**

Adopt Ordinance 3655 adding Section 106 and Section 107 to Chapter 47 of Scottsdale Revised Code Chapter 47 relating to fees and permits for wireless communications facilities, personal wireless service facilities and other encroachments in the City's rights-of-way.

### **Related Policies, References:**

The City's planning and development fee schedule contains the existing fee schedule for cellular sites and other private improvements in the right-of-way.

S.R.C. §47-98. Issuance. Authorizes encroachment permits.

## **BACKGROUND**

As wireless communications devices have become a vital part of the way people work, socialize and recreate in Scottsdale, the need for wireless antenna sites that provide wireless signals has increased. The City's development standards have prompted wireless communications companies to increasingly request use of City infrastructure or other elements, e.g., utility and electrical poles, in the ROW to install antennas and related electronic equipment.

Since 1999, the City has allowed wireless phone companies to install their equipment in the ROW through an encroachment permit, "Permission for Private Improvements in the ROW." At that time, a permit fee was implemented under the *Encroachment Permits and Improvements* section of the planning & development fee schedule. These forms and fees are not well suited to the facilities used by other potential right-of-way users.

The explicit ability to use resolutions to establish fees for encroachment permits and use of the rights-of-way by wireless communications service providers and others that desire to encroach into the City's rights-of-way will, among other things, facilitate greater flexibility for the City Council in setting fees for new technologies, allow the installation of new and emerging wireless services, minimize the need to install new poles or vertical structures, and encourage providers to install equipment to achieve desirable levels of coverage.

The City's ability to develop forms and fees to address the specific and unique nature of encroachments, such as the installation of technology equipment, will assist the City to effectively apply and explain City policies, requirements and

Action Taken \_\_\_\_\_

processes to individuals, organizations, or companies that want to encroach into the City's right-of-way.

**Terminology:**

The proposed ordinance includes the terms Wireless Communications Facility (WCF) and Personal Wireless Services Facilities (PWSF) that are important to the scope of equipment, services and technologies for this section. The reason for selecting these two terms are twofold: first, the WCF is defined in Scottsdale Revised Code and captures the general classifications of wireless services available to the public whereas the second term, PWSF, is the Federal definition of communications services and is complementary in scope. The Federal definition also specifies categories of wireless services that are commonly understood by the wireless service providers.

**Definitions (in S.R.C. Appendix B):**

*Wireless communications facility (WCF)* means a facility for the transmission and/or reception of radio frequency signals, including over-the-air broadcasting signals, usually consisting of antennas, equipment cabinet, a support structure, and/or other transmission and reception devices. Exemption: ham radio, amateur radio facilities, commercial radio and television broadcasting towers, and point-to-point end-user facilities less than one (1) meter in diameter. *S.R.C. Appendix B, Article III, Section 100*

**Definitions (in Federal statutes 47USC332 and 47 USC 153):**

*Commercial mobile service* means any mobile service (as defined in section 153 of this title) that is provided for profit and makes interconnected service available (A) to the public or (B) to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the Commission. *47USC332(d)*

*Mobile service* means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes (A) both one-way and two-way radio communication services, (B) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (C) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled. *47USC153*

*Personal wireless services* means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services. *47USC332(c)(7)(C)*

*Personal wireless service facilities* means facilities for the provision of personal wireless services. *47USC332(c)(7)(C)*

*Unlicensed wireless service* means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services. *47USC332(c)(7)(C)*

**ANALYSIS &  
ASSESSMENT**

**Policy implications.**

By adding Section 106 to Scottsdale Revised Code, Chapter 47, the City will have the ability to develop necessary forms and processes to address encroachments in the right-of-way for the purpose of installing wireless services infrastructure and other non-technology related encroachments in the rights-of-way. The City Manager, or designee, shall initiate all new forms of encroachment permits. The process to development new forms will involve staff from appropriate City departments and the City Attorney will approve the forms.

The addition of Section 107 to S.R.C. Chapter 47 is to specify that the City Council will establish fees for communications and other encroachments in the City's rights-of-way by resolution. This section allows the City the ability to develop and add new fees for encroachments – based on City Council approval – to the City's Fee Schedule for Encroachment Permits/Improvements.

**RESOURCE IMPACTS**

**Staffing, workload impact.**

Adopting these two new sections of the S.R.C. does not require the addition of headcount or staff resources beyond current levels.

**STAFF  
RECOMMENDATION**

**Recommended Approach:**

Adopt Ordinance 3655 adding Section 106 and Section 107 to Chapter 47 of Scottsdale Revised Code Chapter 47 relating to fees and permits for wireless communications facilities, personal wireless service facilities and other encroachments in the City's rights-of-way.

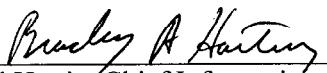
**RESPONSIBLE DEPT(S)**

Information Systems, Financial Services, Planning & Development

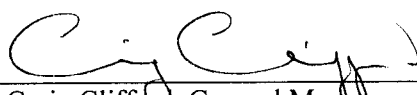
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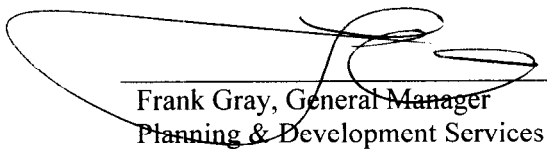
**APPROVED BY**

  
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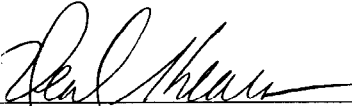
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Date

**ATTACHMENTS**

1. Ordinance 3655
2. Encroachment Permit/Improvements Fee Schedule

ORDINANCE NO. 3655

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SCOTTSDALE, ADDING SECTION 106 AND SECTION 107 TO CHAPTER 47 OF SCOTTSDALE REVISED CODE, RELATING TO FEES AND PERMITS FOR WIRELESS COMMUNICATIONS FACILITIES, PERSONAL WIRELESS SERVICE FACILITIES AND OTHER ENCROACHMENTS IN THE CITY'S RIGHTS-OF-WAY

WHEREAS, the City of Scottsdale has space in the rights-of-way and upon poles in the rights-of-way that are suitable for the installation of wireless communications facilities, personal wireless service facilities and other encroachments; and

WHEREAS, the City desires to make limited access upon its rights-of-way and poles available for such uses; and

WHEREAS, allowing wireless technologies to use poles in City rights-of-way reduces the need to install new poles or vertical elements; and

WHEREAS, the City desires to assess fees for the private use of its rights-of-way; and

WHEREAS, the City desires to authorize the City Manager or designee to promulgate encroachment permit forms adapted for wireless communications facilities and other encroachments;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCOTTSDALE, ARIZONA, as follows:

The Scottsdale Revised Code is hereby amended by adding new sections 47-106 and 47-107 in the form attached hereto as Exhibit "A."

Passed and adopted by the City Council of the City of Scottsdale, Arizona, this \_\_\_\_ day of \_\_\_\_\_, 2005.

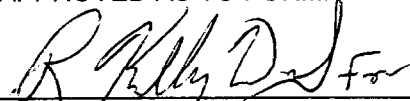
ATTEST:

CITY OF SCOTTSDALE, an  
Arizona municipal corporation

\_\_\_\_\_  
Carolyn Jagger, City Clerk

\_\_\_\_\_  
Mary Manross, Mayor

APPROVED AS TO FORM:



\_\_\_\_\_  
Deborah Robberson, City Attorney

#### **SEC. 47-106. FORM OF ENCROACHMENT PERMITS**

**THE FORM OF ALL ENCROACHMENT PERMITS SHALL BE AS PRESCRIBED BY THE CITY MANAGER, OR DESIGNEE, AND SHALL TAKE INTO ACCOUNT THE NATURE AND OTHER CHARACTERISTICS OF THE PROPOSED ENCROACHMENT AND SHALL REQUIRE SUCH DEPOSITS, CONSTRUCTION METHODS, INSURANCE AND OTHER PROTECTIONS AS THE CITY MANAGER OR DESIGNEE MAY DEEM APPROPRIATE. THE FORMS OF ENCROACHMENT PERMITS SHALL BE SUBJECT TO APPROVAL BY THE CITY ATTORNEY.**

#### **SEC. 47-107. ENCROACHMENT PERMIT FEES**

- (A) THE CITY COUNCIL MAY ESTABLISH FEES FOR ENCROACHMENTS IN CITY RIGHT-OF-WAY.**
- (B) IN ADDITION TO OTHER ENCROACHMENTS, THE CITY COUNCIL MAY ESTABLISH FEES FOR WIRELESS COMMUNICATIONS FACILITIES AND PERSONAL WIRELESS SERVICE FACILITIES INSTALLED, OPERATED AND MAINTAINED IN THE CITY'S RIGHTS-OF-WAY.**
- (C) SUCH FEES MAY VARY ACROSS TECHNOLOGICAL CAPABILITIES AND LEGAL CLASSIFICATIONS.**
- (D) THE CITY COUNCIL MAY EXAMINE THE FEES NO MORE FREQUENTLY THAN ANNUALLY AND MAY ADJUST THE FEES UP OR DOWN.**
- (E) A SCHEDULE OF FEES IS AVAILABLE AT THE CITY DEVELOPMENT REVIEW SERVICES COUNTER. ALTHOUGH IT REFERENCES MANY DIFFERENT TYPES OF FEES, THE SCHEDULE IS NOT ALL-INCLUSIVE AND OTHER FEES MAY APPLY.**



# Encroachment Permits/Improvements

## Fee Schedule

Official Schedule of City of Scottsdale Rates and Fees at: [www.scottsdaleaz.gov](http://www.scottsdaleaz.gov) - keyword "Fees".

### IMPROVEMENT PLANS

The following inspection and permit fees are required for the specified encroachments, and must be paid in addition to all other required fees.

Item	Unit	Fee
Paving, Asphaltic concrete (single course)	Square yard	\$.59
Paving, Overlay or top course of multicourse paving	Square yard	\$.18
Paving, Portland cement concrete	Square yard	\$.45
Decorative sidewalk or paving (Bomanite, Terrazzo, etc)	Square foot	\$.18
Sidewalk and bicycle path	Square foot	\$.14
Curb and gutter	Linear foot	\$.26
Valley gutter	Square foot	\$.83
Concrete apron including curb and/or wheelchair ramps	Each	\$21.63
Scuppers & building drains	Each	\$17.25
Alley surfacing (non A.C.)	Square yard	\$.14
Cutoff walls	Linear foot	\$.41
Slope protection (riprap, gabions, gunnite, cobbles, etc.)	Square yard	\$.72
Dry wells (Maxwell or similar types)	Each	\$101.42
Irrigation and storm drain pipe	Linear foot	\$1.95
Pressure manholes	Each	\$101.42
Catchbasins, headwalls, irrigation, S.D. and water manholes	Each	\$44.83
Sanitary Sewer (except truss and PVC pipe)	Linear foot	\$.75
Sanitary Sewer (truss and PVC pipe)	Linear foot	\$1.00
Sanitary Sewer taps and service line (from main to property line)	Linear foot	\$.42
Sanitary Sewer manholes, without drop connection	Each	\$66.97
Cleanouts and drop connections	Each	\$40.49
Pipe encasements (in twenty-linear-foot sections)	Each	\$16.12
Water line	Linear foot	\$.58
Water service line	Linear foot	\$.42
Tapping sleeves and valves	Each	\$66.97
Fire hydrants and lines from existing mains	Linear foot	\$11.12
Borings	Linear foot	\$5.75
Sprinkler system, piping (for landscaping)	Linear foot	\$.20
Television underground cable or conduit (placed in trench excavated by or for party laying cable or conduit; includes trenching & backfill)	Linear Foot	\$.38
Barricading (permanent-wooden)	Each	\$30.90
Guard Rail	Linear Foot	\$.31

### Planning & Development Services Department

7447 E Indian School Road, Suite 100, Scottsdale, AZ 85251 • Phone: 480-312-7000 • Fax: 480-312-7088



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Item		Unit	Fee
Utility trenching and backfill		Linear Foot	\$ .41
Splice and repair pits (backfill and patch)		Each	\$49.02
Survey monuments		Each	\$10.43
Adjustments: Manholes, valves, cleanouts, monuments, etc.		Each	\$17.23
Signs (regulatory, warning, street, etc.)		Each	\$6.53
Television inspections for sewer lines		Linear foot	\$ .52
Dirt Haul		Cubic Yard	\$ .07
Excavation and fill in public right-of-way and easements			
Cubic Yards	Less than 100	No fee	
	101 - 1,000	\$114.72 for first 100 cubic yards, plus \$49.44 for each additional 100 cubic yards or fraction thereof	
	1,001 – 10,000	\$563.47 for first 1,000 cubic yards, plus \$49.44 for each additional 1,000 cubic yards or fraction thereof	
	10,001 – 100,000	\$1,009.90 for first 10,000 cubic yards, plus \$221.03 for each additional 10,000 cubic yards or fraction thereof	
	100,000 or more	\$2,877.56 for first 100,000 cubic yards, plus \$221.03 for each additional 10,000 cubic yards or fraction thereof	
Lowest Floor Survey			\$199.82
Cell Site / Right of Way			\$1,337.97 Year 1 start up \$7,797.00 Per Year
As Builts (GIS)			\$220.42
Planning Inspection			\$110.21
After Hours Inspection Fee			\$194.67 per hour

## Multiple permits – Base Fee

If more than one permit is required for a single project, only the highest base fee shall be paid. If reinspection is necessary on any inspection with a total permit fee less than \$67.98, a reinspection fee will be charged at 75% of the original total base fee.

**Miscellaneous improvements** not covered by the fees listed above shall be charged in accordance with the following rate schedule, based on the estimated or actual cost of building the improvements:  
6% of the first \$20,000 or portion thereof, plus 5% of the portion between \$20,000 and \$100,000, plus 3% of the portion over \$100,000.

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### **Street Cut Surcharge (In addition to any permit fees)**

New paving less than 12 months old

- Openings 9 square feet to 9 lineal feet: \$1,337.97 each 50 feet
- Openings over 9 lineal feet then A-1 plus: \$3,346.47 each 50 feet

New paving 12 to 24 months old

- Openings 9 square feet to 9 lineal feet: \$856.96 each 50 feet
- Openings over 9 lineal feet then B-1 plus: \$2,142.40 each 50 feet

New paving 25 to 48 months

- Openings 9 square feet to 9 lineal feet: \$428.48 each 50 feet
- Openings over 9 lineal feet then C-1 plus: \$1,071.20 each 50 feet

### **Phased Engineering Permits**

A surcharge will be charged for the phased construction of infrastructure (grading, water/sewer, streets/curb/sidewalk and trails). The surcharge will be 25% (per phase) in addition to the permit value of the requested phase.

### **Vacating Streets/Right of Way Abandonment**

At the time of filing a Right of Way abandonment, or vacation of a public utility easement, the applicant shall pay \$839.45 (refer to Abandon Right of Way fees on application fee sheet).

At the time of filing a vacation of any street, alley or easement for right-of-way, the applicant shall pay \$1,378.14 for a single family property and \$1,921.98 for non-residential or subdivisions (refer to Abandon Right of Way fees on application fee sheet)

## **Planning & Development Services Department**

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